# REMARKS

## Introduction

Claims 1–40 were previously and are currently pending and under consideration.

Claims 1–40 stand rejected.

Claims 1, 2, 11, 12, 21, 22, 31, and 32 are amended herein.

No new matter has been added. Reconsideration and withdrawal of the rejections is respectfully requested.

## §101 Rejection of Claims 1–2

Claims 1, 2, and dependents thereof, are rejected as not reciting a useful, concrete, and tangible result. Applicant traverses this rejection because the rejection does not set forth reasoning in support of the rejection.

As noted in MPEP 2106(IV)(D), "'The examiner bears the initial burden ... of presenting a *prima facie* case of unpatentability' ... After USPTO personnel identify and **explain** in the record the **reasons why a claim is for an abstract idea** ..., then the burden shifts to the to the applicant to either amend the claim or make a showing of why the claim is eligible for patent protection" (emphasis added). The present rejection under section 101 states only the conclusion that the claims do not recite a useful, concrete, and tangible result. The conclusion is not supported by any reason or explanation. The language of the claims is not even mentioned. A *prima facie* case has not been made and therefore the rejection should either be clarified or withdrawn.

### §102 Rejection of Claims 1–40

Claims 1–40 stand rejected as anticipated by Luciani. The rejection is based on the Examiner's equating of "idealized virtual device" with "emulation". However, the original claims recited a virtual device selectively operating in two different modes. Regardless of what an idealized virtual device is interpreted to mean, it is one of two different modes of operation. The rejection does not identify what are the two modes of operation in Luciani's virtual device. However, Luciani's virtual device only emulates a hardware input device such as a CD-ROM or a floppy drive (paragraph 0010) and no such emulator is disclosed as having two modes of operation.

While Luciani's programmable logic device 112 can load different virtual device images (virtual devices), none of those virtual devices are described as having dual operational modes. Each virtual device in Luciani operates in only one mode, a mode in which it simply emulates a corresponding hardware device.

In contrast, the present claims recite two distinct modes of operation. In claim 1, a first mode emulates a specific hardware device, and the second mode the virtual device "virtual device operates with improved performance over the first mode and without emulating the specific hardware device". In claims 11, 21, and 31, the first mode "emulates a real hardware device", and the second mode "the bimodal virtual device functions as an abstract device that is a same type of device as the real hardware device but is incompatible with software configured to interact with the real hardware device". Luciani does not disclose or suggest two modes of operation in a single virtual device.

Withdrawal of the rejection is respectfully requested.

Applicant notes that the claims have been amended only for improved clarity. The original claims recited a bimodal virtual device which is not taught by Luciani. The modes of

operation have been clarified, but that is not relevant to the rejection because the cited prior art virtual device has only one mode of operation. In other words, the present amendments of the claims are not necessary to (or intended to) overcome Luciani.

If the rejection is maintained, Applicant respectfully requests the Examiner to explain what prior art teaching corresponds to the claimed first mode and what prior art teaching corresponds to the claimed second mode of operation.

## Conclusion

The claims are patentably distinct over the prior art. Reconsideration and reexamination of the present application is requested. Based on the foregoing, applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the applicants' attorney at the telephone number listed below.

Type of Response: Amendment
Application Number: 10/734,450
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If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time.  If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No.  50-0463.

Respectfully submitted,
Microsoft Corporation

Date:  29 May 2007                    By:      /James T. Strom/

James T. Strom, Reg. No.: 48,702
Attorney for Applicants
Direct telephone: (425) 706-0362
Microsoft Corporation
One Microsoft Way
Redmond WA  98052-6399

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]
I hereby certify that this correspondence is being electronically deposited with the USPTO via EFS-Web on the date shown below:

May 29, 2007                                      /Kate Marochkina/
Date                                              Kate Marochkina

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